

IC 28-15-11

Chapter 11. Alternative Mortgage Loans of Savings Associations

IC 28-15-11-1

"Adjustable mortgage loan" defined

Sec. 1. As used in this chapter, "adjustable mortgage loan" means a loan:

- (1) whose terms permit adjustments to the interest rate that:
 - (A) reflect the movement of the money cost index; and
 - (B) are implemented through changes in the monthly payment amounts, adjustments to the outstanding principal loan balance, or changes in the loan term; and
- (2) whose term does not exceed forty (40) years.

As added by P.L.193-1997, SEC.2.

IC 28-15-11-2

"Alternative mortgage loan" defined

Sec. 2. As used in this chapter, "alternative mortgage loan" means a mortgage loan authorized by this chapter.

As added by P.L.193-1997, SEC.2.

IC 28-15-11-3

"Association" defined

Sec. 3. As used in this chapter, "association" refers to a savings association (as defined in IC 28-15-1-11).

As added by P.L.193-1997, SEC.2.

IC 28-15-11-4

"Federally chartered association" defined

Sec. 4. As used in this chapter, "federally chartered association" means a savings association incorporated under regulations of the Office of Thrift Supervision or its successor under the Home Owners' Loan Act of 1933 (12 U.S.C. 1464).

As added by P.L.193-1997, SEC.2.

IC 28-15-11-5

"Graduated payment mortgage loan" defined

Sec. 5. As used in this chapter, "graduated payment mortgage loan" or "GPM loan" means a mortgage loan under which:

- (1) the scheduled repayments begin at a level lower than that of a comparable standard mortgage loan and rise to a point determined by the loan documents; and
- (2) the period of the rise, the rate of increase, and the interest rate are fixed in the loan documents.

As added by P.L.193-1997, SEC.2.

IC 28-15-11-6

"Loan documents" defined

Sec. 6. As used in this chapter, "loan documents" means the documents evidencing a loan transaction.

As added by P.L.193-1997, SEC.2.

IC 28-15-11-7

"Money cost index" defined

Sec. 7. As used in this chapter, "money cost index" means any of the following:

- (1) The weekly net yield purchase quotations of conventional program home mortgages published by the Federal Home Loan Mortgage Corporation.
- (2) The monthly national average mortgage rate index for all major lenders for the purchase of previously occupied single-family homes of the Office of Thrift Supervision or its successor.
- (3) The average cost to savings associations of funds insured by the Savings Association Insurance Fund of the Federal Deposit Insurance Corporation, either for all Federal Home Loan Bank districts or for a particular district or districts, as computed semiannually and published by the Office of Thrift Supervision or its successor and made available in news releases.
- (4) The monthly average of weekly auction rates on United States Treasury bills with a maturity of three (3) months or six (6) months, as published in the Federal Reserve Bulletin and made available by the Federal Reserve Board each month.
- (5) The monthly average yield on United States Treasury securities adjusted to a constant maturity of one (1), two (2), three (3), or five (5) years, as published in the Federal Reserve Bulletin and made available by the Federal Reserve Board each month.
- (6) Any rate that is designated by the department.

As added by P.L.193-1997, SEC.2.

IC 28-15-11-8

"Mortgage loan" defined

Sec. 8. As used in this chapter, "mortgage loan" means:

- (1) a loan:
 - (A) secured by a mortgage on real estate that is improved by a dwelling intended for occupancy by at least one (1) and not more than four (4) families; and
 - (B) that includes:
 - (i) the note;
 - (ii) the mortgage; and
 - (iii) any other documents constituting the loan transaction;or
- (2) a loan:
 - (A) secured by a mortgage on real estate that is improved by a combination home and business building; and
 - (B) that includes:
 - (i) the note;
 - (ii) the mortgage; and
 - (iii) any other documents constituting the loan transaction.

As added by P.L.193-1997, SEC.2.

IC 28-15-11-9

"Reverse annuity mortgage loan" or "RAM loan" defined

Sec. 9. As used in this chapter, "reverse annuity mortgage loan" or "RAM loan" means a mortgage loan that:

- (1) provides periodic payments to the borrower based on the accumulated equity in the real estate securing the loan, with payments made directly by the lender or through the purchase of an annuity from an insurance company; and
- (2) becomes due either:
 - (A) at a specified date; or
 - (B) on the occurrence of a specified event, such as a sale of the real estate securing the loan or the death of the borrower.

As added by P.L.193-1997, SEC.2.

IC 28-15-11-10

"Rollover mortgage" defined

Sec. 10. As used in this chapter, "rollover mortgage" means a mortgage loan that:

- (1) is secured by a first mortgage on real estate improved by:
 - (A) a dwelling intended for occupancy by at least one (1) and not more than four (4) families; or
 - (B) a combination home and business building; and
- (2) may be subject to rate adjustments at regularly scheduled times.

As added by P.L.193-1997, SEC.2.

IC 28-15-11-11

"Standard mortgage loan" defined

Sec. 11. As used in this chapter, "standard mortgage loan" means a loan under which the principal and interest are paid in equal monthly installments for a period of not more than forty (40) years.

As added by P.L.193-1997, SEC.2.

IC 28-15-11-12

Regulation of graduated payment mortgage loans

Sec. 12. (a) Graduated payment mortgage (GPM) loans are subject to the following:

- (1) Interest only may be paid for five (5) years, or increases in mortgage payments may be made for periods of not more than ten (10) years within the following maximum rates of increase:
 - (A) Seven and one-half percent (7.5%) annually for five (5) years or less.
 - (B) Six and one-half percent (6.5%) annually for six (6) years.
 - (C) Five and one-half percent (5.5%) annually for seven (7) years.
 - (D) Four and one-half percent (4.5%) annually for eight (8) years.

(E) Three and one-half percent (3.5%) annually for nine (9) years.

(F) Three percent (3%) annually for ten (10) years.

(2) Payment amounts may be changed annually only after one

(1) year following the first regular loan payment.

(b) The borrower may convert a GPM loan into a standard mortgage loan with the same interest rate and maturity if the borrower is qualified under the normal underwriting standards of the savings association. A savings association may not assess penalties for any conversion.

As added by P.L.193-1997, SEC.2.

IC 28-15-11-13

Regulation of reverse annuity mortgage loans

Sec. 13. Reverse annuity mortgage (RAM) loans are subject to the following:

(1) If a mortgage has a fixed term, refinancing must be available at the mortgage rates prevailing when payment is due. The loan documents must provide for prepayment without penalty.

(2) Payments may be made through the purchase of an annuity if the savings association uses an insurance company authorized to engage in business in Indiana.

(3) Interest rates must be fixed, and adjustable mortgage loans may not be made in conjunction with RAM loans.

As added by P.L.193-1997, SEC.2.

IC 28-15-11-14

Regulation of adjustable mortgage loans

Sec. 14. Adjustable mortgage loans are subject to the following:

(1) Adjustments to the principal loan balance are permissible only if:

(A) the initial payment amount is sufficient to fully amortize the loan at the beginning of the loan term; and

(B) the payment amount is adjusted at least every five (5) years to amortize the loan at the current interest rate and principal loan balance over the remaining term of the loan.

(2) Prepayment in full or in part shall be allowed without penalty.

(3) Adjustments to the interest rate must correspond directly to the movement of the money cost index, subject to such rate-adjustment limitations, if any, as a savings association may provide. For the purposes of this subdivision:

(A) the initial money cost index value is the value of the money cost index most recently available within six (6) months before the date of the closing of the loan; and

(B) the interest rate at adjustment shall reflect the difference, in reference to the interest rate of the loan on the date of closing, between the initial money cost index value and either:

(i) the money cost index value most recently available as

of the date of rate adjustment, if the payment is not simultaneously adjusted; or

(ii) the money cost index value most recently available as of the date of notification of a payment adjustment.

However, when the movement of the money cost index permits an interest rate increase, the savings association may decline to increase the interest rate by the indicated amount. The savings association may decrease the interest rate at any time.

(4) The borrower may not be charged any costs or fees in connection with regularly scheduled adjustments to:

(A) the interest rate;

(B) the payment;

(C) the outstanding principal loan balance; or

(D) the loan term.

As added by P.L.193-1997, SEC.2.

IC 28-15-11-15

Restrictions on graduated payment adjustable mortgage loans

Sec. 15. A savings association may make graduated payment adjustable mortgage loans subject to the requirements set forth in section 14 of this chapter, except that:

(1) the amount of the scheduled monthly payment at the beginning of the loan may be insufficient to fully amortize the loan; and

(2) during a period of not more than ten (10) years beginning with the closing date of the loan, the scheduled payments must rise sufficiently to amortize the loan at the then existing interest rate and principal balance over the then remaining loan term, and thereafter the monthly payments must be adjusted every five (5) years to a level sufficient to fully amortize the loan.

As added by P.L.193-1997, SEC.2.

IC 28-15-11-16

Regulation of rollover mortgage loans

Sec. 16. Rollover mortgage loans are subject to the following:

(1) At each scheduled adjustment time, if the loan is not in default, the lender shall make rate adjustments available for the amount of the outstanding loan.

(2) In adjusting the loan, administrative expenses may not be charged to the borrower.

(3) Adjustments must be at least one (1) year apart.

(4) The lender may not charge a penalty or other assessment for the prepayment of the loan.

(5) The lender and the borrower may agree to increase or decrease the interest rate applicable to the outstanding balance of the loan at each adjustment.

(6) The lender may grant the borrower the option of extending the amortization period for purposes of calculating monthly payments on the loan in accordance with the following rules:

(A) The extension of the amortization period may equal up

to one-third (1/3) of the original amortization period, regardless of whether this extends the amortization period beyond thirty (30) years.

(B) To the extent of any extension of the amortization period, the amortization period will be reduced upon a subsequent downward adjustment in the interest rate.

As added by P.L.193-1997, SEC.2.

IC 28-15-11-17

Alternative mortgage loans; required disclosures

Sec. 17. (a) Any statement, disclosure, or notification required by this chapter with respect to an alternative mortgage loan may be made in the form prescribed by the Office of Thrift Supervision or its successor for a similar alternative mortgage loan made by a federally chartered savings association.

(b) In addition to the disclosures required by this chapter, the department may adopt rules under IC 4-22-2 or policies that require additional disclosures for alternative mortgage loans.

As added by P.L.193-1997, SEC.2.

IC 28-15-11-18

Regulation of alternative mortgage loans

Sec. 18. (a) Subsections (b) and (c) apply to alternative mortgage loans and to similar loans authorized under federal law or regulations for a federally chartered savings association.

(b) Any Indiana laws prohibiting:

- (1) the compounding of interest;
- (2) capitalizing interest because contracted loan repayments create negative amortization; or
- (3) paying interest on interest;

do not apply. For purposes of the application of IC 24-4.5-3 to a loan described in subsection (a), "principal" (as defined in IC 24-4.5-3-107(3)) includes interest unpaid and added to principal because the contracted repayments under the loan do not cover the entire interest due at any time.

(c) The lien of the loan provided by the mortgage and the loan documents:

- (1) includes all advances or additions to principal of either principal or interest that are made in accordance with the terms of the loan documents; and
- (2) is superior to any lien on the property created after the date the mortgage securing the loan is recorded, other than taxes and special property or taxing district assessments.

As added by P.L.193-1997, SEC.2.